

military departments has developed a "Management and Oversight of Acquisition of Services Process" to provide a review structure for services acquisitions, as required by the May 31, 2002, memorandum. The military departments are working to implement this infrastructure, which will include approval levels for services acquired through another agency's contract.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because FAR part 37 already requires the use of performance-based contracting to the maximum extent practicable. This DFARS rule establishes internal DoD approval requirements to manage compliance with the existing FAR requirements. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002-D024.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements section 801(b) of the National Defense Authorization Act for Fiscal Year 2002, which requires DoD to establish and implement a management structure for the procurement of services. Section 801(b) became effective upon enactment on December 28, 2001. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR part 237 is amended as follows:

■ 1. The authority citation for 48 CFR Part 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 237—SERVICE CONTRACTING

■ 2. Sections 237.170 through 237.170–3 are added to read as follows:

237.170 Approval of contracts and task orders for services.

237.1701–1 Scope.

This section—

- (a) Implements 10 U.S.C. 2330; and
- (b) Applies to services acquired for DoD, regardless of whether the services are acquired through—

- (1) A DoD contract or task order; or
- (2) A contract or task order awarded by an agency other than DoD.

237.170–2 Prohibition on acquisition of services.

Unless approval is obtained in accordance with 237.170–3, do not acquire services through use of a contract or task order that

- (a) Is not performance based; or
- (b) Is awarded by an agency other than DoD.

237.170–3 Approval requirements.

(a) Acquisition of services through a DoD contract or task order that is not performance based.

(1) For acquisitions at or below \$50,000,000, obtain the approval of the official designated by the department or agency.

(2) For acquisitions exceeding \$50,000,000, obtain the approval of the senior procurement executive.

(b) Acquisition of services through any contract or task order awarded by an agency other than DoD. Obtain approval in accordance with department or agency procedures.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH47

Endangered and Threatened Wildlife and Plants; Delisting of the *Berberis* (= *Mahonia*) *sonnei* (Truckee barberry)

AGENCY: Fish and Wildlife Service Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) have determined that it is appropriate to delist or remove *Berberis* (= *Mahonia*) *sonnei* (Truckee barberry) from the List of Endangered and Threatened Plants. This determination is based on a thorough review of all available data, which indicate that this plant is not a discrete taxonomic entity and does not meet the definition of a species (which includes subspecies and varieties of plants) under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). *Berberis sonnei* has been synonymized with *B. repens*, a common and wide-ranging taxon with a distribution from California northward to British Columbia and Alberta, and eastward to the Great Plains. This rule eliminates Federal protection for *Berberis sonnei* under the Act.

DATES: This rule is effective October 1, 2003.

ADDRESSES: The administrative record for this rule is available for inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office of the U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, California 95825–1888 (telephone: 916–414–6600).

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp or Susan Moore, at the above address (telephone: 916–414–6600; facsimile: 916–414–6713).

SUPPLEMENTARY INFORMATION:

Background

Berberis (= *Mahonia*) *sonnei* is a small colonial evergreen shrub known only from a 280-yard (250-meter) section of the Truckee River floodplain in the town of Truckee, Nevada County, CA. LeRoy Abrams described *Berberis sonnei* as *Mahonia sonnei* in 1934. McMinn (1939) transferred *Mahonia sonnei* to the genus *Berberis*. Separation of *Berberis* and *Mahonia* at the generic level is in dispute among taxonomists. The generic name *Berberis* will be used throughout this discussion following Yoder-Williams (1985, 1986, 1987).